PR4

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,159	10/17/2000	Oleg B. Rashkovskiy	INTL-0472-US (P10019)	2744

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EXAMINER
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ART UNIT	PAPER NUMBER
2611	9

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

PR4

Office Action Summary	Application No.	Applicant(s)
	09/690,159	RASHKOVSKIY, OLEG B.
	Examiner	Art Unit	
	Ngoc K. Vu	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11 July 2002_ .

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _7-10 and 17-30_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _7-10 and 17-30_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 7-10 and 17-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. .   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 7-10 and 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak (US 6,006,257) in view of Hendricks et al (US 5,600,364).

Regarding claim 7, Slezak discloses a method comprising: allowing the use of a content on a content receiver (viewing the primary program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (interrupting a primary program with one or more secondary programs/advertising). Slezak further discloses the advertisement presented to the viewer based on various factors including the movie currently selected, or the scene in the current movie, and/or collected demographic information about the viewer (see col. 1, lines 14-22; col. 2, lines 9-14; col. 3, lines 45-51 and 59-62; col. 4, lines 4-10 and 14-28; col. 6, lines 43-47). Slezak does not teach the limitation "accessing a predetermined the rating assigned to the content and comparing the rating for the content to a rating specified by an advertiser". This limitation calls for comparing the type of the content with a type of advertisement specified by an advertiser. However, Hendricks discloses determining the program category, e.g., sports, news, movies, etc. being watched, and correlating this program with the targeted video or advertisement to display based on the demographic

information, viewing history and/or program category, wherein the advertisement is assigned in different categories by provider or advertiser and stored in library 322 (see col. 35, lines 14-60, col. 36, lines 39-48, col. 38, lines 32-60, and col. 39, lines 7-26, and figures 17 and 21). Therefore, it would have been obvious to one of ordinary skill in the art to modify Slezak by determining the program category being watched, and comparing this program with the advertisement based on the demographic information, viewing history and/or program category in order to present the suitable advertising to viewers during playing the program.

Regarding claim 8, Slezak teaches the recited limitation that reads on the timing of the display of the secondary program may depend upon the responses from the viewer and/or the content of the primary program (see col. 3, lines 59-62).

Regarding claim 9, Slezak teaches the recited limitation that reads on interrupting a primary program, at a predetermined time, with one or more secondary program, typically comprising advertising (see col. 3, lines 45-51).

Regarding claim 10, Slezak teaches the recited limitation that reads on the database unit can be programmed to make decisions regarding when to interrupt a movie with advertising (see col. 6, lines 42-47).

Regarding claim 17, Slezak teaches article comprising a medium for storing instructions (software or programming) that enable a processor-based system to allowing the use of a content on the system (viewing the primary program); automatically interrupting the use of the content; enable the system to temporarily replace the content with advertising (interrupting a primary program with one or more secondary programs/advertising). Slezak further discloses the advertisement presented to the viewer based on various factors including the movie currently selected, or the scene in the current movie, and/or collected demographic information about the viewer (see col. 1, lines 14-22; col. 2, lines 9-14; col. 3, lines 45-51 and 59-62; col. 4,

lines 4-10 and 14-28; col. 6, lines 43-47). Slezak does not teach the limitation "accessing a

predetermined the rating assigned to the content and comparing the rating for the content to a

rating specified by an advertiser". This limitation calls for comparing the type of the content with

a type of advertisement specified by an advertiser. However, Hendricks discloses determining

the program category, e.g., sports, news, movies, etc. being watched, and correlating this

program with the targeted video or advertisement to display based on the demographic

information, viewing history and/or program category, wherein the advertisement is assigned in

different categories by provider or advertiser and stored in library 322 (see col. 35, lines 14-60,

col. 36, lines 39-48, col. 38, lines 32-60, and col. 39, lines 7-26, and figures 17 and 21).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Slezak by

determining the program category being watched, and comparing this program with the

advertisement based on the demographic information, viewing history and/or program category

in order to present the suitable advertising to viewers during playing the program.

Regarding claim 18, Slezak teaches the recited limitation that reads on the timing of the

display of the secondary program may depend upon the responses from the viewer and/or the

content of the primary program (see col. 3, lines 59-62).

Regarding claim 19, Slezak teaches the recited limitation that reads on interrupting a

primary program, at a predetermined time, with one or more secondary program, typically

comprising advertising (see col. 3, lines 45-51).

Regarding claim 20, Slezak teaches the recited limitation that reads on the database unit

can be programmed to make decisions regarding when to interrupt a movie with advertising

(see col. 6, lines 42-47).

Regarding claim 21, Slezak teaches a system comprising a receiver (set top unit 504)

that receives the transmission of content (receiving a the primary program), the receiver

including a shell (overlay processing unit 130) to enable the use of content to be interrupted and temporarily replace with advertising (overlay processing unit displays texts and graphics to a viewer in conjunction with or independently of the primary or secondary program currently being displayed); and storage (database unit 38) coupled to the receiver (set-top unit) storing instructions that enable the receiver determines when to interrupt the content (the primary program) with the advertising and what advertising program to use. Slezak further discloses the advertisement presented to the viewer based on various factors including the movie currently selected, or the scene in the current movie, and/or collected demographic information about the viewer (see col. 1, lines 14-22; col. 2, lines 9-14; col. 3, lines 45-51 and 59-62; col. 4, lines 4-10 and 14-28; col. 6, lines 43-47). Slezak does not teach the limitation "accessing a predetermined the rating assigned to the content and comparing the rating for the content to a rating specified by an advertiser". This limitation calls for comparing the type of the content with a type of advertisement specified by an advertiser. However, Hendricks discloses determining the program category, e.g., sports, news, movies, etc. being watched, and at the set top box correlating this program with the targeted video or advertisement to display based on the demographic information, viewing history and/or program category, wherein the advertisement is assigned in different categories by provider or advertiser and stored in library 322 (see col. 35, lines 14-60, col. 36, lines 39-48, col. 38, lines 32-60, and col. 39, lines 7-26, and figures 17 and 21). Therefore, it would have been obvious to one of ordinary skill in the art to modify Slezak by determining the program category being watched, and comparing this program with the advertisement based on the demographic information, viewing history and/or program category in order to present the suitable advertising to viewers during playing the program.

Regarding claim 22, Slezak teaches the system is a television receiver or set top unit (see figure 1).

Regarding claims 23-27, Hendricks modified Slezak further shows determining the

categories of the program and the suitability of the program, and correlating the program being

watched with advertising at the set top box (see Hendricks, col. 36, lines 39-47, col. 38, lines

32-44 and figures 17 and 21).

Regarding claim 28, Slezak teaches the recited limitation that reads on interrupting a

primary program, at a predetermined time, with one or more secondary program, typically

comprising advertising (see col. 3, lines 45-51).

Regarding claim 29, Slezak teaches the recited limitation that reads on the database unit

can be programmed to make decisions regarding when to interrupt a movie with advertising

(see col. 6, lines 42-47).

Regarding claim 30, Slezak teaches the recited limitation that reads on the timing of the

display of the secondary program may depend upon the responses from the viewer and/or the

content of the primary program (see col. 3, lines 59-62).

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. Arazi et al (US 5,966,120) discloses method and apparatus for combining and

distributing data with pre-formatted real-time video.

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can

normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-872-9314 for regular

communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-306-0377.

NV
July 31, 2002

ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600